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## **APPENDIX A**

# **Task Order Scope of Work**

**Performance Work Statement  
for  
Non-Time-Critical Removal Action  
at the  
Municipality of Culebra  
Culebra, Puerto Rico  
Project No. I02PR006802**

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**Performance Work Statement  
Non Time Critical Removal Action  
Municipality of Culebra  
Culebra, Puerto Rico  
PROJECT NO. I02PR006802  
22 March, 2005**

**1.0 OBJECTIVE**

The objective of this task order is for the contractor to perform a removal action (RA) to remove and dispose of all Munitions of Explosive Concern (MEC) and/or explosive hazards within the selected areas at Culebra, Puerto Rico. The RA shall be in accordance with the signed Action Memorandum.

**2.0 BACKGROUND AND GENERAL STATEMENT OF WORK:**

**2.1 Regulatory Guidelines.** The work required under this Scope of Work (SOW) falls under the Defense Environmental Restoration Program - Formerly Used Defense Sites (DERP-FUDS). Munitions and Explosives of Concern (MEC) exist on property formerly owned or leased by the Department of Defense. The terminology used in this Performance Work Statement (PWS) is updated from the terms used in the Action Memorandum.

**2.1.1** MEC is a safety hazard and may constitute an imminent and substantial endangerment to the local populace and site personnel. The work associated with this Non Time-Critical Removal Action (NTCRA) shall be performed in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104, and the National Contingency Plan (NCP), Sections 300.120(d) and 300.400(e).

**2.1.2** All activities involving work in areas potentially containing unexploded ordnance hazards shall be conducted in full compliance with Department of Defense (DoD), Department of Army, US Army Corps of Engineers (USACE), federal, state and local requirements regarding personnel, equipment, and procedures. 29 CFR 1910.120 shall apply to all actions taken at this site.

**2.2** Culebra came under Navy control in 1901, and the Navy built a small base that same year and an airfield about 20 years later. The Navy used the area for fleet exercises from 1902 until 1975. The Navy began surface and aerial bombing of the Flamenco Peninsula in 1935, and expanded

the range to include eastern and western cays (small islands surrounding Culebra) in the early 1960s. Ordnance firing ended in September 1975.

Culebra Island National Wildlife consists of Culebra Island and about 20 cays surrounding Culebra Island which are owned by the Fish and Wildlife Service (FWS). Total land area is about 7300 acres, and the FWS owns approximately 1500 of these acres. The rest is owned by the Commonwealth of Puerto Rico, primarily the Department of Natural and Environment Resources (DNER).

The six hundred (600) acre Northwest Peninsula was used primarily for shore bombardment centered on white-washed rocks along the shoreline, simulated gun emplacement, white-washed Sherman Tanks, and white-painted fuel drums. Targets were placed mid-peninsula for napalm and aircraft delivery of inert bombs and rockets.

**2.3 Chemical Warfare Materiel (CWM).** This site is not suspected of containing CWM. However, during conventional MEC operations, if the contractor identifies or suspects CWM, the contractor shall immediately withdraw upwind from the work area and contact the United States Army Engineering and Support Center Huntsville (USAESCH) Ordnance and Explosives (OE) Safety Office. The contractor shall secure the area and shall provide two personnel located upwind of the suspect CWM to secure the site until relieved by the Technical Escort Unit (TEU) or Explosive Ordnance Disposal (EOD) personnel.

### **3.0 SPECIFIC REQUIREMENTS.**

The Government will perform Quality Assurance (QA) on all aspects of this task order. Any portion that fails QA will be redone at no cost to the Government. The Government will perform Quality Assurance based upon a Quality Assurance Surveillance Plan (QASP). The Government's final QASP will be developed based upon the Contractor's Quality Control Plan (QCP). The contractor shall propose payment milestones for the duration of this project. The payment milestones shall be based on Government acceptance of deliverables. The contractor shall submit the appropriate Quality Control (QC) documentation with each payment voucher and include the same information in the Final Report.

#### **3.1 (TASK 1) PROJECT PREPARATION AND PLANNING:**

This Task is not used.

### **3.2 (TASK 2) WORK PLAN (WP):**

This Task is Firm Fixed Price.

**3.2.1** The contractor shall prepare and submit for acceptance a WP in accordance with (IAW) DID MR-005-01. The Quality Control Plan shall be a detailed and comprehensive plan covering **all** aspects of the response. A property management plan will be required if the contractor has Government furnished equipment.

The contractor shall coordinate all field activities with FWS, DNER, the Municipality of Culebra, and landowners on procedures required to protect endangered species (floras and fauna).

### **3.3 (TASK 3) PERFORM COMMUNITY RELATIONS.**

This task is time and materials

The contractor shall be prepared to provide support to the Community Relations activities as directed by ESCH and CESAJ Project Manager (PM) with input from the TPP process. For cost estimating purposes assume 10 one week meeting including travel and per diem to Culebra and vicinity. The contractor should include cost he deems necessary for Engineering, Administration and support.

### **3.4 (TASK 4) REMOVAL ACTION:**

This task is time and materials

The Contractor shall provide the necessary personnel and equipment to safely destroy and/or remove and dispose of all MEC and munitions debris visible on the ground surface and IAW the Action Memorandum(s). The contractor shall use instrument aided searches to locate MEC and munitions debris in areas where vegetation could prevent him from seeing an object on the ground.

	<b>SITE</b>	<b>ACREAGE</b>
Task 4a	Mob - Demob	
Task 4b	OOU-3 Cerro Balcon	30
Task 4c	OOU-4 Isla Culebrita	82
Task 4d	OOU-5 Other surrounding Cays	39.5

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### **3.4.1 SOW Performance Metrics and QC/QA Criteria**

The performance metrics that will be used to evaluate the Contractor's performance of all tasks under this PWS are specified in Attachment B.

**3.4.2 Backfilling Excavations:** All access/excavation/detonation holes shall be backfilled by the Contractor. The Contractor shall restore such areas to their prior condition.

**3.4.3 MEC Accountability:** The Contractor shall maintain a detailed accounting of all MEC items/components encountered. This accounting shall include the amounts of MEC, the identification, condition, depth, disposition, and location. This accounting shall be a part of an appendix to the Final Report.

**3.4.4 Disposal of Munitions Debris:** All munitions debris shall be handled in accordance with Attachment A of the SOW.

**3.4.5 Munitions Debris certification and verification:** In the event a USACE Safety Specialist is not on site to verify the scrap the UXOQCS or UXOSO shall verify the scrap in accordance with Attachment A of the SOW.

### **3.4.6 QC/QA Performance Criteria**

**If the QA finds any of the items on the sites listed below while performing their QA check, the contractor will fail his performance criteria for this item of work and will be required to redo his work at no additional cost to the Government.**

**OOU-3 Cerro Balcon** No explosive hazards or MEC objects with a width (diameter) or thickness inclusive of MK 23 and larger.

**OOU-4 Isla Culebrita** No explosive hazards or MEC objects with a width (diameter) or thickness of a 20mm and larger.

**OOU-5 Surrounding Cays** No explosive hazards or MEC objects with a width (diameter) or thickness of a 3 inch Navy Gun Fired projectile and larger.

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### **3.5 (TASK 5) GEOSPATIAL DATA – GIS:**

This Task is not used. The contractor is providing the GIS under a previous contract. The WP will be developed using previous GIS data and will intergrate the government furnished 3001 Geospatial aerial photography data to include orthomosaics, Geo TIFF's, SIDs, Metsdata tiles, etc. The specific areas of work will be presented in the WP in such a manner to allow easy verification of specific areas where removal actions will occur. This will allow the identification of difficult terrain and vegetation data. The Pre-Draft WP should be developed and will be field verified by ESCH, CESAJ PM and PREQB before submitting the Draft WP to the public.

### **3.6 (TASK 6) FINAL REPORT:**

This Task is not used. The contractor is providing a Pre-draft, Draft and Final Report under a previous contract.

### **3.7 (TASK 7) ENVIRONMENTAL SAMPLING:**

3.7.1 The Environmental Sampling and Analysis Plan (SAP) shall be prepared in accordance with OE-005-10.01 and EM 200-1-3. The Sampling and Analysis Plan shall include a Field Sampling Plan and the Quality Assurance Project Plan to characterize the areas of interest. Previously prepared work plans for this site shall be utilized as much as possible in the preparation of the plan. As a minimum, the level of data quality and QC shall be equivalent to that required in the existing work plans. The plan shall address each requirement as identified in ER 1110-1-263 and EM 200-1-3. The Contractor shall provide the laboratory QA/QC plan as an appendix to the SAP. The laboratory shall meet all of the requirements of Appendix I in EM 200-1-3 unless approved in advance in the SAP. If there are any requirements that the laboratory cannot meet, they shall be clearly identified in the SAP. The requirement for the laboratory to provide quantitative second column confirmation for explosives per EM 200-1-3/SW8000B (i.e., five-point calibrations must be performed for each target analyte for the primary and confirmatory columns and quantitative results for each column must be reported) will not be waived. Based upon project requirements, exceptions will be considered for the following coeluting pairs: 2-A-DNT/4-A-DNT, 2-NT/4-NT, and 2,4-DNT/2,6-DNT.

3.7.2 Laboratory Qualifications. The analytical laboratory utilized by the Contractor must be identified in the proposal and the SAP, have a current validation by the Corps of Engineers' Hazardous, Toxic, and Radioactive Center of Expertise (HTRW-CX), per EM 200-1-1 *Validation of Chemistry Laboratories*, 01 Jul 94, or be in compliance with the recently published version of

the DOD Quality Systems Manual (QSM) including the NELAC chapter 5 component for the appropriate fields of testing, and hold the applicable state certifications to perform the analytical methods required by this SOW. Any laboratory performing chemical analysis must be approved prior to beginning work by CEHNC. The determination of acceptability of the laboratory will be at the discretion of the CEHNC Project Chemist and coordinated with the CEHNC Project Manager and CEHNC Technical Manager. If the laboratory fails to meet project-specific requirements at any time, the Contracting Officer may request use of the laboratory be discontinued and analytical services be procured from a laboratory that can meet project-specific requirements. Samples may not be subcontracted to another laboratory without the approval of the Contracting Officer, and the second laboratory must be validated by USACE for the parameters of concern.

**3.7.3 Coordination with Government QA Laboratory.** The Contractor must provide coordination for the collection and shipment of the QA samples. QA samples will be collected from 10% of the total quantity of samples. From the location that is chosen for QA analysis, the quantity of material collected shall be sufficient for three samples. The first two portions shall be submitted to the primary lab as the primary sample and the blind duplicate. The third portion shall be submitted to the QA laboratory as a split sample for analysis. All samples shall be thoroughly homogenized prior to placement into the sample containers. QA samples shall be sent to the government lab shown below by overnight delivery. The samples shall be analyzed by the same methods as the primary samples and shall be used to compare the primary and QA data. Sampling containers will be provided by the primary contracting laboratory for the QA samples at no additional costs to the government. The Contractor shall provide the QA lab a minimum of two weeks notice of sample shipment, unless an alternate notification requirement is proposed and accepted by the Contracting Officer. All QA sample handling and custody requirements shall be administered by the Contractor similar to the environmental samples. The QA laboratory address is:

U.S. Army Corps of Engineers  
Environmental Chemistry Branch Laboratory (ECB)  
ATTN: Laura Percifield  
420 South 18th Street  
Omaha, NE 68102  
Telephone: (402) 444-4314



The Contractor shall be responsible for inscribing the Project ID "LIMS #" onto the labels and chain-of-custody records for all GQA samples shipped to ECB Lab. The Contractor shall coordinate with the CEHNC Project Chemist to acquire a LIMS #. Contractor laboratory data, to include results of the parent samples, field control samples and associated laboratory QC shall be provided to the QA lab and USAESCH per the submittal schedule for QA evaluation.

**3.7.4 Data Reporting Requirements.** The Contractor shall provide data reporting elements for definitive data per Section I.13.4.2 of EM 200-1-3. The laboratory shall report all analytical results greater than the Method Detection Limit (MDL), which, in the analyst's professional judgment, are believed to be reliably detected. Concentrations reported between the MDL and the Practical Quantitation Limit (PQL) shall be flagged as estimated. PQLs shall be at least 3 times MDLs for all analytes.

The data shall be assembled in a package so that USEPA could validate the data in accordance with USEPA requirements. The data shall also be included in the draft and final reports in tabular format. There should be, at a minimum, two types of data tables. The first shall include all analytical results for all samples collected. The second shall include all analytical results greater than Method Detection Limit (MDL) for all samples collected. Tables should be sorted by method and include appropriate data flags resulting from laboratory review and from Contractor's data validation.

Data shall also be provided electronically by the Contractor in the ADR format. Use of this software will require that the contractor develop a comprehensive library file for all of the methods to be analyzed under this SOW. The library file will accurately reflect all of the analytical quality requirements as documented in the final SAP for this project and will be provided to both USACE and the sub-contract lab for use in screening EDD submittals. All electronic data submitted by the contract laboratory is required to be error-free, and in complete agreement with the hardcopy data. Data files are to be delivered both by e-mail and on high density CD accompanying the hardcopy data reports. The disk must be submitted with a transmittal letter from the laboratory that certifies that the file is in agreement with hardcopy data reports and has been found to be free of errors using the latest version of the ADR evaluation software provided to the laboratory. The contract laboratory, at their cost, will correct any errors identified by CEHNC. The Contractor is responsible for the successful electronic transmission of

field and laboratory data under this SOW. The Contractor's laboratory is responsible for archiving the electronic raw data and sufficient associated hardcopy data (e.g., sample login sheets and sample preparation log sheets) to completely reconstruct the analyses that were performed for a period of ten years after completion of this contract.

**3.7.5 Data Validation.** All data collected and produced as a result of this field and laboratory effort shall be validated by the contractor per the as requirements in approved SAP and the *USEPA Contract Laboratory Program (CLP) National Functional Guidelines (NFG) for Inorganic data Review* EPA 540-R-01-008 dated July 2002 and the *USEPA CLP NFG for Organic data Review* dated October 1999. The validation shall be performed and documented in the draft and final engineering reports. Validation documentation should address review of laboratory and field QC results. Persons performing the data validation shall have a minimum of 10 years experience plus directly relatable laboratory experience coupled with two years data review and two years data validation experience in accordance with current guidelines.

**3.7.6 Data Quality** The Contractor shall provide a data quality of a level sufficient for the support project objectives as defined in the SAP. The Contractor shall provide QC of the various analytical tasks performed. The Contractor is responsible for achieving the data quality as defined in the SAP. Analytical data that does not meet QA requirements may be rejected by the Government and contract re-performance required at no additional cost to the Government.

**3.7.7 Environmental Sampling.** When suspected MEC is identified at these locations a pre and post detonation composite sample shall be collected. For cost estimating purposes, assume 50 total samples shall be priced. Refer to EM 200-1-3, E3 for guidance on the correct procedure for the collection of composite samples. Each pre and post detonation sample shall be analyzed for TAL metals by method SW846 3050B/6010B, explosives by method 8330 perchlorate, PETN, and NG. The contractor shall propose an EPA approved method for the analysis of PETN, & NG. All samples locations shall be accurately recorded using GPS coordinates to within one (1) foot of the actual sample location. These sample locations shall be plotted on a map for this project.

**3.7.2 Submittals** for this task shall include Daily Quality Control Reports (DQCRs), Chain of custody forms (COC), submittal and evaluation of all associated QC information, maps showing the OB/OD pre and post sampling locations and analytical concentrations at each location. The contractor shall submit the laboratory data submitted in an electronic ADR format. Use of this

software will require that the contractor develop a comprehensive library file for all of the methods to be analyzed under this SOW. The library file and will be provided to both USACE and the sub-contract lab for use in screening EDD submittals. All electronic data submitted by the contract laboratory is required to be error-free, and in complete agreement with the hardcopy data. Data files are to be delivered both by e-mail and CD accompanying the hardcopy data reports. The disk must be submitted with a transmittal letter from the laboratory that certifies that the file is in agreement with hardcopy data reports and has been found

#### **4.0 SUBMITTALS AND CORRESPONDENCE:**

**4.1 Schedule:** The Contractor shall submit a proposed Project Schedule in Microsoft Project. The Contractor shall update the schedule in accordance with DID MR-085 Project Status Report. A final schedule shall be submitted a minimum of 30 days before commencing fieldwork.

**4.2 Telephone Conversations/Correspondence Records:** The Contractor shall keep a record of each phone conversation and written correspondence concerning this Task Order in accordance with DID MR-055. A copy of this record shall be attached to the Project Status Report.

**4.3 Project Status Reports:** The Contractor shall prepare and submit Project Status Reports in accordance with DID MR-085 and include any other items required in the PWS.

**4.4 Computer Files:** All final text files generated by the Contractor under this contract shall be furnished to the Contracting Officer in Microsoft Word 98 or higher software. Spreadsheets shall be in Microsoft EXCEL. All final CADD drawings shall be in Microstation 95 or higher. All GIS data shall be in ESRI (Arcview/Arcinfo) format. All CADD and GIS submittals shall be IAW DID MR 005-07.

**4.5 PDF Deliverables:** In addition to the paper and digital copies of submittals, the final version of any and all reports and/or plans shall be submitted, uncompressed, on CD ROM in PDF format along with a linked table of contents, linked tables, linked photographs, linked graphs, and linked figures, all of which shall be suitable for viewing on the Internet. The PDF files shall be created from source documents whenever possible.

**4.6 Identification of Responsible Personnel:** Each report shall identify the specific members and title of the Contractor's staff and subcontractors that had significant and specific input into the reports' preparation or review.

**4.7 Public Affairs:** The Contractor shall not publicly disclose any data generated or reviewed under this contract. The Contractor shall refer all requests for information concerning site conditions to the CESAJ Antilles Public Affairs Office or the CESAJ PM. with a copy furnished to the USAESCH PM. Reports and data generated under this contract are the property of the DoD and distribution to any other source by the Contractor, unless authorized by the Contracting Officer, is prohibited.

**4.8 Submittals:** The Contractor shall furnish copies of the plans, maps, and reports as identified in paragraph 4.9, or as specified in this PWS, to each addressee listed below in the quantities indicated. The Contractor shall submit an equal number of CDs and hard copies (draft and final versions) IAW section 4.4. The Contractor shall submit an equal number of CDs and hard copies, of all final versions, IAW section 4.5. For purposes of the PWS all days are considered calendar days. The contractor may submit the CDs of the final version after the hard copy final version has been accepted.

**4.9 Copies Furnished:**

ADDRESSEE	COPIES
US Army Engineering and Support Center, Huntsville ATTN: CEHNC-OE-DC (Mr. Terry Steuart) 4820 University Square Huntsville, AL 35816-1822	4
US Army Engineer District, Jacksonville ATTN: CESAJ-DP--B (Mr. Robert Bridgers) 701 San Marco Blvd Jacksonville, FL 32207	5
US Army Corp of Engineers Antilles Area Office ATTN: CESAJ-DS-P (Jose Martinez-Laboy) 400 Fernandez Juncos Avenue San Juan P.R. 00901-3299	25

#### **4.10 Submittals and Due Dates:**

<b><u>SUBMITTAL</u></b>	<b><u>DUE DATES</u></b>
Proposed Schedule	5 days after award
Pre Draft Work Plan	21 days after award
Draft Work Plan	14days after receipt of comments
Final Work Plan	14 days after receipt of comments

The overall completion date for all work associated with this contract is 30 September 2006

#### **5.0 REFERENCES:**

##### **5.1 Section C of the Basic Contract**

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## ATTACHEMENT A

**USESCH**

**9 March 05**

### **Corps of Engineers Contractors Ordnance and Explosive (OE) , Range Residue (RR)**

#### **Inspection, Certification, and Final Disposition Procedures**

#### **I. OE & RR Inspection – Contractor Responsibilities and Procedures**

1. The U.S. Army Corps of Engineers (USACE) contractors executing projects will comply with the following procedures for processing OE and Range Residue for final disposition as scrap metal. The objective of these procedures is to ensure that an inspection procedure of the exterior and interior surfaces of all recovered items is in place to ensure these items do not present an explosive hazard. These USACE contractor responsibilities and procedures will be contained in the project work plan.

- a. Unexploded Ordnance (UXO) Sweep Personnel will only mark suspected items and will not be allowed to perform any assessment of a suspect item to determine its status.
- b. Unexploded Ordnance (UXO) Tech I will only tentatively identify a located item as scrap or OE.
- c. UXO Technician II will:
  - (1) Inspect each item as it is recovered and determine the following:
    - ◆ ◆ Is the item a UXO or a component of a military munitions?
    - ◆ ◆ Does the item contain explosives hazards or other dangerous fillers?
    - ◆ ◆ Does the item require detonation?
    - ◆ ◆ Does the item require demilitarization (demil) or venting to expose other dangerous fillers?

- ◆ ◆ Does the item require draining of engine fluids, illuminating dials and other visible liquid hazardous, toxic or radiological waste (HTRW) materials?
- (2) Segregate items requiring demil or venting procedures from those items ready for certification.
- (3) Items found to contain explosives hazards or other dangerous fillers will be processed in accordance with applicable procedures.

d. UXO Technician III will:

- (1) Inspect recovered items to determine if free of explosives hazards or other dangerous fillers and engine fluids, illuminating dials and other visible liquid HTRW materials?
- (2) Supervise detonation of items found to contain explosive hazards or other dangerous fillers and venting/demil procedures.
- (3) Supervise the consolidation of recovered scrap metal for containerization and sealing.

e. UXO Quality Control (QC) Specialist will:

- (1) Conduct daily audits of the procedures used by UXO teams and individuals for processing OE or Range Residue.
- (2) Perform and document, a minimum 10%, random sampling (by pieces, volume or area ) of all scrap metal collected from the various teams to ensure no items with explosive hazards, engine fluids, illuminating dials and other visible liquid HTRW materials are identified as scrap metal as required for completion of the Requisition and Turn-in Document, DD Form 1348-1A.

f. UXO Site Safety Officer (UXOSO) will:

- (1) Ensure the specific procedures and responsibilities for processing OE and Range Residue for certification as scrap metal is being followed, performed safely, consistent with applicable regulations, and in accordance with the USACE approved project work plan.
- (2) Will perform random checks of processed OE and Range Residue to ensure items being identified as scrap are free from any explosive hazards engine fluids, illuminating dials and other visible liquid HTWR materials.

g. Senior UXO Supervisor will:

- (1) Be responsible for ensuring work and Quality Control (QC) Plans specify the procedures and responsibilities for processing OE and Range Residue for the final disposition as scrap metal.
- (2) Ensure a Requisition and Turn-in Document, DD Form 1348-1A is completed for all scrap metal to be transferred for final disposition.
- (3) Perform random checks to satisfy that the OE or range residue is free from explosive hazards necessary to complete the Form, DD 1348-1A.
- (4) Certify all scrap metal generated from OE or Range Residue as free of explosive hazards, engine fluids, illuminating dials and other visible liquid HTWR materials.
- (5) Be responsible for ensuring that these inspected materials are secured in a closed, labeled and sealed container and documented as follows;
  - The container will be closed and clearly labeled on the outside with the following information: The first container will be labeled with a unique identification that will start with **USACE/Installation Name/Contractor's Name/0001/Seal's unique identification** and continue sequentially.



- The container will be closed in such a manner that a seal must be broken in order to open the container. A seal will bear the same unique identification number as the container or the container will be clearly marked with the seal's identification if different from the container.
- A documented description of the container will be provide by the contractor with the following information for each container; contents, weight of container; location where OE scrap was obtained; name of contractor, names of certifying and verifying individuals; unique container identification; and seal identification, if required (see paragraph I. 1.g. (5). The contractor in a separate section of the final report will also provide these documents.

## **II. OE Scrap Certification and Verification**

1. The contractor will ensure that scrap metal generated from OE or Range Clearance is properly inspected in accordance with the procedures in I. above. Only personnel who are qualified UXO personnel per USACE's Contract Data Item Description (DID) OE-025 will perform these inspections. The Senior UXO Supervisor will certify and the USACE's OE Safety Specialist will verify that the scrap metal is free of explosive hazards.
2. DD form 1348-1A will be used as certification/verification documentation. All DD 1348-1A must clearly show the typed or printed names of the contractor's Senior UXO Supervisor and the USACE's OE Safety Specialist, organization, signature, and contractor's home office and field office phone number(s) of the persons certifying and verifying the scrap metal.
  - a. Local directives and agreements may supplement these procedures. Coordination with the local concerns will identify any desired or requested supplementation to these procedures.
  - b. In addition to the data elements required and any locally agreed to directives, the DD 1348-1A must clearly indicate the following for scrap metal:

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- (1) Basic material content (Type of metal; e.g., steel or mixed)
  - (2) Estimated weight
  - (3) Unique identification of each of the containers and seals stated as being turned over.
  - (4) Location where OE scrap was obtained.
  - (5) Seal identification, if different from the unique identification of the sealed container.
- c. The following certification/verification will be entered on each DD 1348-1A for turn over of scrap and will be signed by the Senior UXO Supervisor and the USACE OE Safety Specialist.
- "This certifies that the material listed has been 100 percent properly inspected and, to the best of our knowledge and belief, are free of explosive hazards, engine fluids, illuminating dials and other visible liquid HTRW materials.

### **III Maintaining The Chain Of Custody And Final Disposition**

The contractor, in coordination with the Corps of Engineers, will arrange for maintaining the chain of custody and final disposition of the certified and verified materials. The certified and verified material will only be released to an organization that will:

- a. Upon receiving the unopened labeled containers each with its unique identified and unbroken seal ensuring a continued chained of custody, and after reviewing and concurring with all the provided supporting documentation, sign for having received and agreeing with the provided documentation that the sealed containers contained no explosive hazards when received. This will be signed on company letterhead and stating that the contents of these sealed containers will not be sold, traded or otherwise given to another party until the contents have been smelted, shredded, or flashed and are only identifiable by their basic content.

- b. Send notification and supporting documentation to the sealed container-generating contractor documenting the contents of the sealed containers have been smelted or shredded and are now only identifiable by their basic content.
  
- c. This document will be incorporated by the contractor into the final report as documentation for supporting the final disposition of this scrap metal.

**Attachment B**  
**QASP Performance Metrics for Performance Assessment Record (PAR)**

	Exceptional	Very Good	Satisfactory	Marginal	Unsatisfactory
<b>PAR Category: Quality of Product or Service</b>					
<b>Performance indicator: Document reviews</b>					
<u>Draft</u> Plans and Reports	All contract-milestone documents approved as submitted	One or more documents or subplans were approved as submitted, but exceptions were noted. Resubmissions were not required.	One or more documents or subplans required revisions to be resubmitted for approval prior to proceeding. Resubmission of an entire document or subplan was not required.	One or more documents or subplans required revisions to be resubmitted for approval prior to proceeding. Resubmission of an entire document or subplan was required.	One or more documents or subplans did not comply with contract requirements, or one or more documents or subplans required more than one resubmission of the entire document or subplan prior to its approval.
<b>Performance indicator: Project Execution</b>					
Process Compliance	Zero Corrective Action Requests (CAR)	1-5 CARs for non-critical WP violations (no impact to overall cost and schedule resulting from the non-compliance)	6 or more CARs for non-critical violations (no impact to overall cost and schedule resulting from the non-compliance)	>1 CAR where non-compliance adversely impacted overall cost or schedule	Repeated non-compliance with WP requirements resulted in cost overruns or repeated schedule extensions
Quality Control	Zero QA failures, 80% or more QC measures accepted, zero repetitive QC failures	Zero QA failures, 80% or more QC measures accepted, one or more repetitive QC failure occurred	Zero QA failures, less than 80% of QC measures accepted,  or,  One or more non-repetitive QA failures occurred	1-3 repetitive QA failures occurred	>3 repetitive QA failures occurred
<b>PAR Category: Schedule</b>					
<b>Performance indicator: Timely completion of tasks</b>					
<u>Final</u> Work Plans and Reports, project milestones, T.O. invoices	All document submittals and task order milestones and invoices complete and approved by T.O date, project closed out/final invoice approved	Project closed out/final invoice approved ahead of schedule	project closed out/final invoice approved on T.O. date	Project closed out/final invoice approved within 30 calendar days after T.O. date.	Project closed out/final invoice approved more than 30 calendar days after T.O. date.

	ahead of schedule				
Monthly/weekly status reports accurate/on-time			Yes		No
<b>Performance indicator: Impacts to schedule</b>					
Impacts caused by contractor or other causes identified, in writing, in a timely manner to apply acceptable corrective actions.			Yes		No
<b>PAR Category: Cost Control</b>					
<b>Performance indicator: No unauthorized cost overruns</b>					
Unauthorized cost overruns			No		Yes
Total Project Costs	Total contract invoices less than 98% of initial T.O. authorized amount	Total contract invoices greater than 98% but less than 99.99% of initial T.O. authorized amount	Total contract invoices between 99.99% and 100% of initial T.O. authorized amount	Total contract invoices greater than 100% but less than 105% of initial T.O. authorized amount	Total contract invoices greater than or equal to 105% of T.O. authorized amount
<b>Performance indicator: Monthly cost report</b>					
Monthly cost reports accurate			Yes		No
<b>Performance indicator: Impacts to cost</b>					
Impacts caused by contractor or other causes identified, in writing, in a timely manner to apply acceptable corrective actions.			Yes		No
<b>PAR Category: Business Relations</b>					
<b>Performance indicator: Met contractual obligations</b>					
Corrective Actions taken were timely and effective (Refer to CARs issued to contractor)			Yes		No
<b>Performance indicator: Professional and Ethical Conduct</b>					
Meetings and correspondences with	Zero letters of reprimand,		Zero letters of reprimand,	One letter of reprimand,	More than one letter of reprimand, grievance or

Public, project delivery team and other stakeholders	grievances, or formal complaints AND one or more unsolicited letters of commendation		grievances, or formal complaints	grievance or formal complaint that was resolved through negotiation	formal complaint that were resolved through negotiation OR removal of one or more project personnel as a results of a letter of reprimand, grievance or formal complaint.
Performance indicator: Customer has overall satisfaction with work performed					
Customer survey results for rating period	4.0-5.0	3.0-3.9	2.0-2.9	1.0-1.9	<1.0
Performance indicator: Personnel responsive and cooperative					
Key personnel responsive, and cooperative	Always		Most Times		Almost Never
PAR Category: Management of Key Personnel and Resources					
Performance indicator: Personnel knowledgeable and effective in their areas of responsibility					
Personnel assigned to tasks	All personnel proposed by contractor were assigned to project, some personnel were substituted by higher qualified individuals.		All personnel proposed by contractor were assigned to project, some personnel were substituted by equally qualified individuals.		All personnel proposed by contractor were assigned to project, some personnel were substituted by lesser qualified individuals.
Performance indicator: Personnel able to manage resources efficiently					
Instances when resource management had negative impact on project execution	0	1-2	3-4	5-6	>6
PAR Category: Safety					
Performance indicator: Accidents and Violations					
Number of Class A Accidents, contractor at fault	0				1 or more
Major safety violations	0		1		>1
Minor safety violations	1		2-4		>4

**The following guidelines are provided for issuing ratings that are subjective in nature, these ratings will be supported by the weight of evidence documented during the government's surveillance efforts:**

Exceptional: Performance *meets* contractual requirements and *exceeds many* to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with *few minor problems* for which corrective actions taken by the contractor were *highly effective*.

Very Good: Performance *meets* contractual requirements and *exceeds some* to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with *some minor problems* for which corrective actions taken by the contractor were *effective*.

Satisfactory: Performance *meets* contractual requirements. The contractual performance of the element or sub-element contains *some minor problems* for which corrective actions taken by the contractor *appear or were satisfactory*.

Marginal: Performance *does not meet all* contractual requirements. The contractual performance of the element or sub-element being assessed reflects a *serious problem* for which the contractor has *not yet identified corrective actions*. The contractor's proposed actions appear only *marginally effective or were not fully implemented*.

Unsatisfactory: Performance *does not meet most* contractual requirements and *recovery is not likely* in a timely manner. The contractual performance of the element or sub-element contains *serious problems* for which the contractor's corrective actions *appear or were ineffective*.



**PRELIMINARY POINTS OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE PUERTO RICO ENVIRONMENTAL QUALITY BOARD**

**Investigation and Response Activities Related to Contamination Resulting From  
Military Use and Training In Areas On and Around Culebra, Puerto Rico**

**ARTICLE I – PURPOSE**

The U.S. Department of the Army ("Army") and the Puerto Rico Environmental Quality Board ("PREQB") (hereinafter the "Parties") enter into this Preliminary Points of Agreement to foster a cooperative relationship and to facilitate current and future discussions regarding investigations and response activities related to contamination resulting from military use and training in areas on and around Culebra, Puerto Rico.

**ARTICLE II – BACKGROUND**

WHEREAS, Culebra is located 17 miles east of the island of Puerto Rico and is approximately nine miles from the Island of Vieques. In 1901, Culebra's public lands were placed under Department of the Navy ("Navy") control. In accordance with current information, the Navy used certain areas of Culebra for training activities from 1903 until 1941, and as a bombing and gunnery range from 1935 until 1975.

WHEREAS, unexploded ordnance and remnants of exploded ordnance and other contaminants resulting from military use and training may be present on Culebra, the keys (cays and small islands) of Culebra, and in the nearby and surrounding water areas. The Commonwealth of Puerto Rico believes that if the presence of these substances is not properly characterized, and response actions taken where appropriate, they may pose an unreasonable risk or threat to human health and the environment.

WHEREAS, in 1974, Congress enacted "Notwithstanding any other provision of law, the present bombardment area on the island of Culebra shall not be utilized for any



purpose that would require decontamination at the expense of the United States. Any lands sold, transferred, or otherwise disposed of by the United States as a result of the relocation of the operations referred to in subsection (a) may be sold, transferred, or otherwise disposed of only for public park or public recreational purposes." Section 204(c) of the Military Construction Authorization Act of 1974, Pub.L. 93-166.

WHEREAS, in 1980, subsequent to the 1974 Authorization Act, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). CERCLA imposes liability on "the owner and operator of a vessel or a facility" and on "any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of[.]" 42 U.S.C. §9607(a)(1) - (2). The term "person" includes "an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State [including the Commonwealth of Puerto Rico], municipality, commission, political subdivision of a State, or any interstate body." 42 U.S.C. §9601(21) and (27). CERCLA 120(a) requires that each department, agency, and instrumentality of the United States shall be subject to, and comply with, CERCLA. 42 U.S.C. §9620(a).

WHEREAS, in 1992, subsequent to the 1974 Authorization Act, Congress enacted "Each department, agency, and instrumentality ... of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal or management of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement or solid waste or hazardous waste disposal and management in the same manner, and to the same extent, as any person is subject to such requirements[.]" 42 U.S.C. §6961(a).

WHEREAS, in the early 1980s, the Navy transferred certain Culebra parcels to the Secretary of the Interior. In 1982, the Secretary of the Interior deeded some of these parcels to the Commonwealth of Puerto Rico. Section 9 of the Quitclaim Deed from the United States to the Commonwealth states: "In accordance with the provisions of Section 204 of Public Law 93-166, that portion of the subject property which has heretofore been used as a bombardment area by the United States Navy is hereby accepted by Grantee in its present condition and further agrees that the United States shall not in any manner be responsible for decontamination of such area, nor for the costs thereof, but the same is and shall be solely (sic) the responsibility of the Grantee. The Grantee hereby agrees to indemnify and save the Grantor harmless from any and all claims, demands, actions, liabilities, judgments, costs and attorney's fees arising out of, claimed on account of or in any manner predicated upon loss or damage to property or injuries to or the death of any and all persons whatsoever, arising in any way from any person's use of or presence on the subject property."



WHEREAS, in 1986, CERCLA was amended to state that "there shall be no liability under subsection (a) of this section [42 U.S.C. §9607] for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of a hazardous substance and the damages resulting there from were caused solely by -- ... (3) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff or acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (a) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances, and (b) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions ...." 42 U.S.C. §9607(b).

WHEREAS, in 1986, CERCLA was also amended to state that "the term 'contractual relationship,' for the purpose of 9607(b)(3) of this title, includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless the real property on which the facility concerned is located was acquired by the defendant after the disposal or placement of the hazardous substance on, in, or at the facility, and one or more of the circumstances described in clause (i), (ii), or (iii) is also established by the defendant by a preponderance of the evidence: (i) At the time the defendant acquired the facility the defendant did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in, or at the facility .... In addition to establishing the foregoing, the defendant must establish that the defendant has satisfied the requirements of section 9607(b)(3)(a) and (b) of this title, provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility), is in compliance with any land use restrictions established or relied on in connection with the response action at a facility, and does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action." 42 U.S.C. §9601(35).

WHEREAS, CERCLA provides that: "(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a release or threat of release under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section." 42 U.S.C. 9607(e)(1).

WHEREAS, the Parties do not necessarily agree with the interpretation, application to the present situation, and/or legal significance of the foregoing legal provisions. Furthermore, the Parties willingly enter into this agreement without



renouncing or disclaiming any legal or factual claims they may have and may invoke them at a later time or action if no agreement can be reached.

WHEREAS, despite their legal differences, the Parties desire to investigate and to take appropriate response actions to respond to threats to public health and the environment resulting from past military activities on Culebra.

WHEREAS, as a former Navy facility "under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination," portions of Culebra have been determined to be eligible for inclusion in the Department of Defense Formerly Used Defense Sites ("FUDS") Program (See 10 U.S.C. § 2701(c)(1)(A-B); 10 U.S.C. §2703). In coordination with the Commonwealth, the Army has been involved since 1991 in performing investigations related to Navy training activities on the island of Culebra and surrounding cays. As described in the Draft Outline Army Plan of Action for Culebra, the Army has already conducted inspections of many Culebra areas previously used by the Navy for training, and has completed an initial report to identify areas for further investigation. The Department of the Army is the Executive Agent for the FUDS Program and, through the U.S. Army Corps of Engineers, executes the FUDS Program in accordance with CERCLA and the National Contingency Plan ("NCP").

WHEREAS, today, several non-Department of Defense entities, including the United States, acting through the U.S. Fish and Wildlife Service; the Culebra Conservation and Development Authority; and private landowners own areas on and around Culebra.

WHEREAS, after discussions with the Commonwealth and U.S. Environmental Protection Agency (EPA) on the appropriateness and necessity of the listing, Army has drafted an "Outline of Army Plan of Action for Culebra," which is attached to this Preliminary Points of Agreement.

WHEREAS the Commonwealth of Puerto Rico and PREQB appreciate and acknowledge the Army's "Outline of Army Plan of Action for Culebra" as a positive first step forward.

WHEREAS, on 13 June 2003, the Governor of Puerto Rico requested that EPA include certain "lands and bodies of water on Vieques and Culebra," which the Commonwealth has identified collectively as the Atlantic Fleet Weapons Training Area ("AFWTA"), as Puerto Rico's single highest priority site for purposes of listing on the National Priorities List (NPL) pursuant to CERCLA §105(a)(8)(B). By letters dated October 21, 2003, May 26, 2004 and July 28, 2004, Puerto Rico provided a more specific description of the lands and waters proposed for listing.

WHEREAS, on August 13, 2004, EPA published a notice of a proposal to add to the NPL certain areas on and around Vieques and Culebra, which the Commonwealth has identified collectively in its listing request as the AFWTA, the Commonwealth's single highest priority site. In the notice, EPA solicited "comment on an approach that



would separate the final listing decision for Culebra from the final listing decision for Vieques. Under such an approach, EPA would go forward with a final rule listing Vieques and postpone the final listing decision of Culebra to allow the completion of a Memorandum of Agreement between Puerto Rico and Army. The Memorandum of Agreement would govern the response actions necessary to protect Culebra's human health and environment. The EPA, Puerto Rico and the Army have agreed to pursue this alternate arrangement. The terms or progress under such agreement may determine the point at which it may be appropriate to withdraw the proposal to list the Culebra areas. EPA's intent would be to allow the Culebra areas to be addressed by the two parties under their agreement." 69 Fed. Reg. 50115, 50119 (August 13, 2004).

WHEREAS Puerto Rico is willing to withdraw or modify its request to include the Culebra area proposed for listing on the NPL at some point in the future if satisfactory progress is being made by other means toward investigating and responding to threats to human health and the environment from past military activities on Culebra on terms and conditions to be negotiated in the Memorandum of Agreement. If an agreement cannot be reached, Puerto Rico intends to request that the Culebra portions of the facility achieve the same NPL status as the Vieques portions.

### ARTICLE III – SCOPE OF PRELIMINARY POINTS OF AGREEMENT

NOW, THEREFORE, the Parties have agreed to the following principles:

A. Open Communications. The Parties agree to cooperate with each other through an open and transparent process both with respect to communications with each other and with respect to communication with the public and other stakeholders. The Parties agree to raise and resolve issues at the Program Manager level. The Parties' signatories (or senior representatives) agree to meet as necessary, by telephone or in person, to address issues that cannot be resolved at lower levels. The Parties agree to resolve any conflicts using a consensus building approach to identify practical and effective solutions.

B. Outline of Army Plan of Action for Culebra. The Army has provided the "Outline of Army Plan of Action for Culebra" to the PREQB for review and comment. The Parties agree that the "Outline of Army Plan of Action for Culebra" provides a framework for defining the nature and scope of past, current, and future Army investigation and response activities on and around Culebra. The Parties agree to refine the Action Plan to achieve results that are legally permissible, technically feasible, consistent with explosives safety principles, protective of human health and the environment, and compliant with CERCLA and the NCP. The PREQB further agrees to provide its comments to the Army within 30 days following the signing of this Preliminary Points of Agreement by all Parties. The Parties agree to meet and discuss any issues, including revisions to the "Outline of Army Plan of Action for Culebra" based on ongoing investigations, as needed, thereafter.

C. Document Sharing. Throughout this effort, the Parties agree to share with



each other any non-privileged documentation in their possession pertinent to the investigation and response activities related to contamination resulting from military use and training on or near Culebra. The Parties agree to provide any comments they might have on such documentation within a reasonable timeframe such as not to disrupt or delay unnecessarily the schedule for the work to be performed.

D. Additional Investigation and Response Activities. Pursuant to the revised Outline of Army Plan of Action for Culebra, and in accordance with CERCLA and the NCP, Army shall conduct investigations to determine the presence of contamination resulting from military use and training in Culebra areas that are eligible under the FUDS program. These areas, as well as the associated water areas, include, but are not necessarily limited to, the following:

1. Flamenco Peninsula (Northwest Peninsula);
2. Alcarraza Cay (Fungy Bowl);
3. Los Gemelos (Twin Rocks);
4. Cayo del Agua;
5. Culebrita (northwest section);
6. Cayo Geniqui (Palada Cay);
7. Cayo Tiburon (Shark Cay);
8. Cayo Botella (Ladrone Cay); and
9. Mortar Range Area in Cerro Balcon.

E. Parties Roles and Responsibilities. The Army recognizes the PREQB as the Lead Regulatory Agency and agrees to conduct response activities in accordance with CERCLA, the NCP, and applicable Puerto Rico law in those Culebra areas that are eligible under the FUDS program and to the extent authorized and not otherwise prohibited by law.

Army shall coordinate and perform its investigative and response activities under the oversight of the PREQB. If deemed necessary, the PREQB intends to utilize technical assistance from EPA. Nothing in this agreement may be interpreted as impeding EPA to provide whatever technical assistance is requested by PREQB in this process.

F. Memorandum of Agreement. The Parties contemplate that the PREQB and Army will enter into a Memorandum of Agreement to implement this Preliminary Points of Agreement. Specifically, the Memorandum of Agreement will provide for an open and transparent process; identification of legally permissible, technically feasible, safe, and protective objectives; establishment of realistic timelines and milestones to be negotiated during the final Memorandum of Agreement; formulation of reliable measures of merit; consideration of the Parties' respective roles and responsibilities; public and stakeholder participation; and a process for issue resolution. The Parties agree to use their best efforts to reach an agreement that effectively and efficiently deals with human health and environmental issues arising from contamination resulting from military use and training on Culebra and its surrounding keys and waters, and that

focuses on results, including protecting public health and the environment from unreasonable risks, if any.

#### ARTICLE IV – ACCESS TO PROPERTIES

Activities pursuant to this Preliminary Points of Agreement will be carried out on property that is no longer under the jurisdiction of the Secretary of the Defense and is neither owned, leased to, nor otherwise possessed by the Department of Defense. This property is currently under the jurisdiction of the U.S. Fish and Wildlife Service, the Commonwealth, the Municipality of Culebra, or private landowners. In order to ensure the efficient progress of activities, the Parties agree to use their best efforts and available authorities to obtain access for Army to all applicable Culebra properties. The PREQB agrees to coordinate access to properties owned by the Commonwealth and/or the Municipality of Culebra. In the event that Army is unable to obtain access required for investigative or response activities, Army shall promptly notify the PREQB.

#### ARTICLE V – QUALIFICATIONS AND LIMITATIONS

This Preliminary Points of Agreement is neither a fiscal nor a funds obligation document.

Nothing in this Agreement is intended to alter the specific statutory or regulatory authorities or responsibilities possessed by any of the signatories, or of other non-signatory agencies or parties, including the inherent authority of the Parties and their successors, to exercise their prerogatives, including enforcement and regulatory authority.

The activities contemplated in this Preliminary Points of Agreement will be carried out in accordance with existing statutory authorities, obligations, and restrictions.

#### ARTICLE VI – EFFECTIVE DATE

This Preliminary Points of Agreement will be effective when approved by all of the indicated signatories. The Parties will continue to discuss and contemplate a final memorandum of agreement, which when final will supercede this document.

APPROVED: October 28, 2004

  
Raymond J. Fatz  
Deputy Assistant Secretary of the Army  
(Environment, Safety and Occupational Health)

  
Esteban Mujica-Cotto  
President, Environmental Quality Board  
Commonwealth of Puerto Rico